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6 Attorneys for Plaintiff  
SAFARI PARK, INC.  
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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 EASTERN DIVISION

11 SAFARI PARK, INC., a California  
corporation,

12 Plaintiff,

13 v.  
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15 SOUTHRIDGE PROPERTY OWNERS  
ASSOCIATION OF PALM SPRINGS, a  
California nonprofit, mutual benefit  
16 corporation;  
2203 SOUTHRIDGE LLC, a California  
17 corporation,  
KURT BOCHNER, Trustee of the Kurt  
18 Bochner Revocable Trust dated  
November 19, 1984;  
19 DESERT WATER AGENCY, a public  
agency;  
20 ALAN NEIL FREIMAN, an individual;  
BETTY J. GARBER, Trustee of the  
21 Garber Family Trust;  
DANIEL F. JENSEN, an individual;  
22 SUSAN S. JENSEN, an individual;  
LA PIEDRA LLC, a Maryland limited  
23 liability corporation;  
AGNES MONTZ, an individual;  
24 BARRY R. PETERSEN, Trustee of the  
Petersen Wolff Trust dated September  
25 19, 2015;  
MARY NELL JACOBSEN WOLFF,  
26 Trustee of the Petersen Wolff Trust dated  
September 19, 2015;  
27 SCOTT FREDERICK PRINGLE,  
Trustee of the Scott Frederick Pringle  
28 Revocable Trust dated May 20, 2015;  
RICE L. RICE, an individual;

Case No.

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
TRESPASS**

**DEMAND FOR JURY TRIAL**

1 ALEXA CHRISTINA RICE, an  
individual;  
2 RYNYA, LLC, a Delaware corporation;  
KARENA D. SAHAIDACHNY, an  
3 individual;  
ROBERT A. SAHAIDACHNY, an  
4 individual;  
SCOTT JEREMY LIVING TRUST;  
5 SOUTHRIDGE CHALLENGE,  
GREGORY B. WILCOX, Trustee of the  
6 Wilcox Richmond Revocable Trust dated  
August 5, 2004;  
7 CANDIS E. RICHMOND, Trustee of the  
Wilcox Richmond Revocable Trust dated  
8 August 5, 2004;  
DENNIS YARES, an individual;  
9 MOLLY YARES, an individual;  
DAVID ZIPPEL, an individual;  
10 MICHAEL JOHNSON, an individual;  
and DOES 1 through 200, inclusive,

11 Defendants.  
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1 Plaintiff SAFARI PARK, INC. ("Safari Park") by its Complaint for  
2 Injunctive Relief and Damages, hereby alleges as follows:

3 **THE PARTIES**

4 1. SAFARI PARK, INC. ("Safari Park") is a corporation formed under  
5 the laws of the state of California that maintains a principal place of business at  
6 2601 Cherokee Way, Palm Springs, California 92264.

7 2. Upon information and belief, SOUTHRIDGE PROPERTY OWNERS  
8 ASSOCIATION OF PALM SPRINGS ("Southridge") is a California nonprofit,  
9 mutual benefit corporation, organized and existing under the laws of the state of  
10 California, with its principal place of business located at 1111 East Tahquitz Canyon  
11 Way, # 103, Palm Springs, California 92262.

12 3. Upon information and belief, 2203 SOUTHRIDGE LLC is a California  
13 corporation, organized and existing under the laws of the state of California, owner  
14 of that certain real property located at 2203 Southridge Drive, Palm Springs,  
15 California 92262, APN 510250034.

16 4. Upon information and belief, KURT BOCHNER is Trustee of the Kurt  
17 Bochner Revocable Trust dated November 19, 1984, organized and existing under  
18 the laws of the state of California, owner of that certain real property located at 2275  
19 Southridge Drive, Palm Springs, California 92262, APN 510250018.

20 5. Upon information and belief, DESERT WATER AGENCY is a public  
21 groundwater management agency, organized and existing under the laws of the state  
22 of California, owner of that certain real property located at 2466 Southridge Drive,  
23 Palm Springs, California 92262, APN 510260030.

24 6. Upon information and belief, ALAN NEIL FREIMAN is an individual,  
25 owner of that certain real property located at 2433 Southridge Drive, Palm Springs,  
26 California 92262, APN 510260029.

27 7. Upon information and belief, BETTY J. GARBER is Trustee of the  
28 Garber Family Trust, organized and existing under the laws of the state of

1 California, owner of that certain real property located at 2455 Southridge Drive,  
2 Palm Springs, California 92262, APN 510260024.

3 8. Upon information and belief, DANIEL F. JENSEN is an individual,  
4 owner of that certain real property located at 2362 Southridge Drive, Palm Springs,  
5 California 92262, APN 510250007.

6 9. Upon information and belief, SUSAN S. JENSEN is an individual,  
7 owner of that certain real property located at 2362 Southridge Drive, Palm Springs,  
8 California 92262, APN 510250007.

9 10. Upon information and belief, LA PIEDRA, LLC, a limited liability  
10 company organized and existing under the laws of the state of Maryland, owner of  
11 that certain real property located at 2399 Southridge Drive, Palm Springs, California  
12 92262, APN 510260020.

13 11. Upon information and belief, AGNES MONTZ is an individual, owner  
14 of that certain real property located at 2432 Southridge Drive, Palm Springs,  
15 California 92262, APN 510260015.

16 12. Upon information and belief, BARRY R. PETERSEN is Trustee of the  
17 Peter Wolff Trust, organized and existing under the laws of the state of Colorado,  
18 owner of that certain real property located at 2212 Southridge Drive, Palm Springs,  
19 California 92262, APN 510250001.

20 13. Upon information and belief, MARY NELL JACOBSEN is Trustee of  
21 the Peter Wolff Trust, organized and existing under the laws of the state of  
22 Colorado, owner of that certain real property located at 2212 Southridge Drive,  
23 Palm Springs, California 92262, APN 510250001.

24 14. Upon information and belief, SCOTT FREDERICK PRINGLE is  
25 Trustee of the Scott Frederick Pringle Revocable Trust dated May 20, 2015,  
26 organized and existing under the laws of the state of California, owner of that  
27 certain real property located at 2477 Southridge Drive, Palm Springs, California  
28 92262, APN 510241029.

1        15. Upon information and belief, RICE L. RICE is an individual, owner of  
2 that certain real property located at 2379 Southridge Drive, Palm Springs, California  
3 92262, APN 510250020.

4        16. Upon information and belief, ALEXA CHRISTINA RICE is an  
5 individual, owner of that certain real property located at 2379 Southridge Drive,  
6 Palm Springs, California 92262, APN 510250020.

7        17. Upon information and belief, RYNYA, LLC, is a corporation organized  
8 and existing under the laws of the state of Delaware, owner of that certain real  
9 property located at 2466 Southridge Drive, Palm Springs, California 92262, APNs  
10 510260007, 510260006, and 510260028.

11       18. Upon information and belief, KARENA D. SAHAIDACHNY is an  
12 individual, owner of that certain real property located at 2477 Southridge Drive,  
13 Palm Springs, California 92262, APN 510260007.

14       19. Upon information and belief, ROBERT A. SAHAIDACHNY is an  
15 individual, owner of that certain real property located at 2477 Southridge Drive,  
16 Palm Springs, California 92262, APN 510260007.

17       20. Upon information and belief, JEREMY SCOTT is Trustee of the Scott  
18 Jeremy Living Trust, organized and existing under the laws of the state of  
19 California, owner of that certain real property located at 2175 Southridge Drive,  
20 Palm Springs, California 92262, APNs 510250031 and 510250026.

21       21. Upon information and belief, SOUTHRIDGE CHALLENGE, LLC, a  
22 limited liability company organized and existing under the laws of the state of  
23 Maryland, owner of that certain real property located at 2400 Southridge Drive,  
24 Palm Springs, California 92262, APN 510260005.

25       22. Upon information and belief, GREGORY B. WILCOX is Trustee of  
26 the Wilcox Richmond Revocable Trust dated August 5, 2004, organized and  
27 existing under the laws of the state of Alaska, owner of that certain real property  
28 located at 2288 Southridge Drive, Palm Springs, California 92262, APN 510250040.

1           23. Upon information and belief, CANDIS E. RICHMOND is Trustee of  
2 the Wilcox Richmond Revocable Trust dated August 5, 2004, organized and  
3 existing under the laws of the state of Alaska, owner of that certain real property  
4 located at 2288 Southridge Drive, Palm Springs, California 92262, APN 510250040.

5           24. Upon information and belief, DENNIS YARES is an individual, owner  
6 of that certain real property located at 2323 Southridge Drive, Palm Springs,  
7 California 92262, APN 510250019.

8           25. Upon information and belief, MOLLY YARES is an individual, owner  
9 of that certain real property located at 2323 Southridge Drive, Palm Springs,  
10 California 92262, APN 510250019.

11           26. Upon information and belief, DAVID ZIPPEL is an individual, owner  
12 of that certain real property located at 2340 Southridge Drive, Palm Springs,  
13 California 92262, APN 510250006.

14           27. Upon information and belief, MICHAEL JOHNSON is an individual,  
15 owner of that certain real property located at 2340 Southridge Drive, Palm Springs,  
16 California 92262, APN 510250006.

17           28. The APNs identified in paragraphs 3 through 27 above are hereinafter  
18 referred to as the "Southridge Parcels."

19           29. The true names, and identities or capacities, whether individual,  
20 associate, corporate or otherwise of DOES 1 through 200, inclusive, are unknown to  
21 Safari Park, who therefore sues said defendants by fictitious names. Safari Park is  
22 informed and believes, and on such information and belief, alleges that each of the  
23 defendants sued herein as a DOE are legally responsible in some manner for the  
24 events and happenings referred herein. When the true name, identity and capacity of  
25 such fictitiously designated defendants are ascertained, Safari Park will ask leave of  
26 the Court to amend this Complaint to insert said true names, identities and  
27 capacities, together with proper charging allegations.

28           30. The above-named defendants and DOES 1 through 200 are referred to



1 collectively herein as “Defendants.”

## 2 JURISDICTION

3 31. This Court has jurisdiction over this action pursuant to 28 U.S.C.  
4 sections 1331 et seq., in that Safari Park’s claims arise under the laws of the United  
5 States pursuant to the Mission Indian Relief Act of January 12, 1891, 25 U.S.C.  
6 section 415 et seq. and regulations promulgated thereunder. The property at the  
7 center of this Complaint is under the jurisdiction of the Agua Caliente Band of  
8 Cahuilla Indians, an American Indian Tribe recognized by the United States of  
9 America, and is held by the United States, in trust. See *Boisclair v. Superior Court*  
10 (1990) 51 Cal.3d 1140, 1152 (“[Title 28 U.S.C. § 1360(b)] precludes states from  
11 asserting jurisdiction over disputes concerning Indian land”). Moreover, the claims  
12 and defenses to be determined depend on the resolution of substantial questions of  
13 federal law.

## 14 VENUE

15 32. Venue is in the Eastern Division of the Central District of California  
16 pursuant to 28 U.S.C. section 1391(b)(2), in that the Agua Caliente Indian  
17 Reservation ("Tribal Land") is located in Riverside County, California, and some or  
18 all of the acts and/or omissions and transactions of which complaint is made  
19 occurred on the Tribal Land, within the Eastern Division of the Central District of  
20 California.

## 21 GENERAL ALLEGATIONS

22 33. The Agua Caliente Band of Cahuilla Indians (“Tribe”) is an American  
23 Indian Tribe recognized by the United States of America in the Mission Indian  
24 Relief Act of January 12, 1891, 26 Stat. 712, and Public Law 86-339 (P.L. 86-339,  
25 Sept. 21, 1959, 73 Stat. 602-605, 25 U.S.C. §§ 951-960) (“Mission Relief Act”). By  
26 the Mission Relief Act, as amended, allottees of allotted land on the Tribal Land  
27 were individually allotted certain of the lands of the Agua Caliente Indian  
28 Reservation. All other lands of the reservation are unallotted tribal lands held for

1 the benefit of the Tribe. Both allotted and unallotted tribal lands are held by the  
2 United States, in trust, allottees and the Tribe.

3 34. Safari Park is informed and believes that an allottee can mortgage, gift  
4 or sell their allotted property as they see fit with the approval of the Bureau of  
5 Indian Affairs ("BIA").

6 35. Safari Park is informed and believes that the property at issue in this  
7 Complaint was allotted in severalty to Steven Allen Rice, a member of the Agua  
8 Caliente Indian Tribe (Allotment No. 118E). Accordingly, by virtue of his  
9 allotment, Safari Park is informed and believes that Steven Allen Rice was and is  
10 entitled to lease the allotted property as he sees fit, subject to the approval of the  
11 BIA.

### 12 The Governing Documents

13 36. On or about February 3, 1965, Raymond C. Ellis and Culver Nichols,  
14 Guardian of the Estate of Steven Allen Rice (a minor at that time) entered into  
15 Business Lease No. PSL-93 ("Business Lease"). Pursuant to the Business Lease,  
16 Mr. Ellis (the lessee) was granted the right to conduct certain businesses on Tribal  
17 Land held in trust and allotted to Steven Allen Rice, and agreed to pay rent for the  
18 privilege of doing so. One such approved use for the land is a "[t]railer park."  
19 Exhibit A, ¶ 4.B.

20 37. The address of the real property subject to the Business Lease is  
21 commonly known as 3865 E. Palm Canyon Drive, Palm Springs, CA 92264  
22 ("Leased Premises"). The Assessor's Parcel Number for the Leased Premises is  
23 681-160-017.

24 38. Pursuant to Section 2 of the Business Lease, the Leased Premises were  
25 leased, "subject to any prior, valid, existing rights of way." *Id.*, ¶ 14.

26 39. The Business Lease was approved by the Area Director of the Bureau  
27 of Indian Affairs on or about June 21, 1965.

28 40. On or about February 1, 1967, Raymond C. Ellis entered into an



1 agreement to sublease the entirety of the Leased Property to Safari Park, Inc.  
2 (“Sublease”). The Sublease was approved by the Area Director of the Bureau of  
3 Indian Affairs on or about April 7, 1967.

4 41. On or about March 29, 1979, Steven Allen Rice and Raymond C. Ellis  
5 entered into Supplemental Agreement No. 1 to Lease No. PSL-93 (“First  
6 Supplemental Agreement”). Pursuant to the First Supplemental Agreement, the  
7 term of the Business Lease was amended to a term of seventy-nine (79) years,  
8 ending June 20, 2044. The First Supplemental Agreement was approved by the  
9 Area Director of the Bureau of Indian Affairs on or about July 20, 1979.

10 42. On or about March 29, 1979, Raymond C. Ellis entered into  
11 Supplemental Agreement No. 1 to the Sublease with Safari Park, Inc. (“First  
12 Amended Sublease”). Pursuant to the First Amended Sublease, the term of the  
13 Sublease was amended to a term of seventy-nine (79) years, ending June 20, 2044  
14 (consistent with the term of the Business Lease).

15 43. Under the terms of the Sublease and First Amended Sublease, Safari  
16 Park is subject to the original rights and obligations conferred by the Business  
17 Lease.

18 44. On or about November 12, 1982, Steven Allen Rice and Raymond C.  
19 Ellis entered into Supplemental Agreement No. 2 to Lease No. PSL-93 (“Second  
20 Supplemental Agreement”). The Second Supplemental Agreement implemented  
21 minor changes to the rental accounting procedures, but otherwise left the First  
22 Supplemental Agreement unchanged. The Second Supplemental Agreement was  
23 approved by the Area Director of the Bureau of Indian Affairs on or about  
24 November 12, 1982.

25 45. On or about March 7, 1986, the Business Lease was assigned from  
26 Raymond C. Ellis to the Raymond C. Ellis Revocable Trust.

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**The Southridge HOA Right-Of-Way and Trespass**

46. Safari Park is informed and believes that in or about June of 1960 (prior to the execution of the Business Lease described above), Southridge obtained a right-of-way (“ROW”) from the Bureau of Indian Affairs to allow Defendants to cross the Tribal Lands.

47. A portion of the ROW (as roadway) is located on and runs through the Leased Property.

48. Pursuant to 25 CFR 169.201, the maximum duration of a right-of way- is fifty years. Accordingly, Safari Park is informed and believes that the ROW granted to the Defendants *expired on June 5, 2010*, after a 50 year term.

49. Although the Business Lease was granted to Raymond C. Ellis, and later assigned to Safari Park subject to any “prior, valid, existing rights of way,” once the ROW expired, Safari Park’s leasehold interest in the Leased Property was no longer subject thereto.

50. Safari Park is informed and believes that Defendants have made no application to renew the ROW, and that no such application has been granted by the Bureau of Indian Affairs.

51. Moreover, Safari Park is informed and believes, and on that basis alleges that the Secretary of the Interior has not approved any lease or other agreement authorizing Defendants to enter onto or otherwise use any of the Leased Property.

52. Safari Park has not granted Defendants permission to use and/or access the ROW located on the Leased Premises (nor could Safari Park, without the BIA’s approval).

53. Safari Park is informed and believes that notwithstanding the expiration of the ROW, Defendants have continued to trespass on the portion of the expired ROW located on the Leased Premises, without Safari Park’s or the BIA’s consent. Specifically, the owners of the Southridge Parcels use this portion of the expired

1 ROW in order to access the Southridge Parcels, and thereby trespass across the  
2 Leased Premises. Safari Park has notified Defendants of the ongoing trespass  
3 multiple times since the ROW expired and such trespass began. Defendants have  
4 continued to trespass on Safari Park's Leased Property nonetheless.

5 54. Such trespass has been knowing and intentional, in flagrant defiance of  
6 Safari Park's property rights pursuant to the Business Lease and Sublease.

7 55. Safari Park is informed and believes that Defendant Southridge HOA  
8 has also constructed and is continuously operating a guard shack and a guard gate on  
9 the Leased Property, without Safari Park's consent.

10 **FIRST CAUSE OF ACTION**

11 **(Trespass Against All Defendants)**

12 56. Safari Park hereby incorporates by reference each and every allegation  
13 contained in paragraphs 1 through 55 as though fully set forth herein, and makes the  
14 following allegations on information and belief.

15 57. Pursuant to the Sublease, Safari Park is the sole sublessee to the  
16 Business Lease that entitles Safari Park to use the Leased Premises for its mobile  
17 home park. The term of the Sublease and Business Lease expires on June 20, 2044.

18 58. Southridge was granted a ROW to use a portion of the Leased Property,  
19 which expired on June 5, 2010.

20 59. Safari Park is informed and believes that no interest can be acquired in  
21 tribal lands by long-continued use, adverse possession, or prescription. See *United*  
22 *States v. S. Pac. Transp. Co.*, 543 F.2d 676 (9th Cir. 1976). Accordingly, neither  
23 Southridge nor the other Defendants have a prescriptive right to use the Leased  
24 Premises.

25 60. Since the expiration of the ROW, Defendants have knowingly and  
26 intentionally continued to use the portion of the ROW located on the Leased  
27 Premises, without Safari Park's permission or consent.

28 61. Safari Park is informed and believes that Defendants have also

1 constructed and are continuously operating a guard shack and a guard gate on the  
2 Leased Property, without Safari Park's consent.

3 62. By continuing to use the portion of the ROW located on the Leased  
4 Property and by constructing unpermitted improvements thereto without Safari  
5 Park's consent, Defendants have thereby deprived Safari Park of the sole use and  
6 benefit of the Leased Premises, to which Safari Park is entitled under the Sublease,  
7 to Safari Park's severe and irreparable injury, and conferred upon Defendants a  
8 benefit to which Defendants are not legally entitled.

9 63. As a direct and proximate result of Defendants' conduct as alleged  
10 herein, Safari Park has been deprived of the possession, use and enjoyment of its  
11 property and has suffered compensatory and consequential damages in an amount to  
12 be proven at trial.

13 64. Defendants, and each of them, have engaged in knowing and  
14 intentional conduct in a willful and conscious disregard of the rights of Safari Park  
15 by committing the acts alleged herein, and have acted with an intent to injure Safari  
16 Park. Therefore, Safari Park is entitled to an award of exemplary and punitive  
17 damages against Defendants, and each of them, pursuant to Civil Code §  
18 3294. Unless restrained and enjoined by this Court, Defendants, and each of them,  
19 will continue to deny Safari Park the sole use and benefit of the Leased Property, to  
20 Safari Park's severe and irreparable injury for which Safari Park has no plain,  
21 speedy or adequate remedy at law.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Safari Park respectfully requests the following relief:

24 A. That the Court temporarily, preliminarily and permanently enjoin and  
25 restrain Defendants and all persons acting in concert with them or under their  
26 direction and control from entering onto the Leased Premises for any purpose;

27 B. That the Court order Defendants to vacate the improperly constructed  
28 guard tower and guard gate, and turn ownership of such improvements over to

1 Safari Park;

2 C. That the Court enter judgment in favor of Safari Park and award money  
3 damages, punitive damages, and exemplary damages according to proof at trial;

4 D. An award of reasonable attorneys' fees and costs paid to Safari Park;  
5 and

6 E. Any such further relief as the Court may deem just and appropriate.  
7

8 Dated: June 7, 2018

RUTAN & TUCKER, LLP  
A. PATRICK MUÑOZ  
EMILY WEBB

11 By: /s/ A. Patrick Muñoz  
A. Patrick Muñoz  
Attorneys for Plaintiff  
SAFARI PARK, INC.

14  
15 **DEMAND FOR JURY TRIAL**

16 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, demand is  
17 hereby made for trial by jury on all issues triable to a jury.  
18

19 Dated: June 7, 2018

RUTAN & TUCKER, LLP  
A. PATRICK MUÑOZ  
EMILY WEBB

22 By: /s/ A. Patrick Muñoz  
A. Patrick Munoz  
Attorneys for Plaintiff  
SAFARI PARK, INC.